

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
HOT SPRINGS DIVISION**

**ANDREW LEE JACKSON**

**PETITIONER**

**v.**

**Civil No. 6:19-cv-6049**

**DEXTER PAYNE, Director  
Arkansas Dept. Of Corrections**

**RESPONDENT**

**ORDER**

Before the Court is the Motion for Discovery (ECF No. 23) filed herein by the Respondent. The Petitioner, through Counsel, has indicated to the Court he has no objection to the requested discovery.<sup>1</sup> The Court has reviewed the Motion and finds same should be granted.

**IT IS ORDERED** the Respondent's Motion for Discovery (ECF No. 23) is **GRANTED**. Specifically, pursuant to Rule 6 of the Rules Governing Section 2254 Cases, good cause is found for the following discovery:

1. Respondent may issue a subpoena *duces tecum* under FED. R. CIV. P. 45 to Mr. Ben Motal, Petitioner's state post-conviction counsel, requiring Mr. Motal to produce copies of Petitioner's legal file and Mr. Motal's billing records regarding Petitioner's post-conviction proceedings under Rule 37 of the Arkansas Rules of Criminal Procedure. Copies of all documents and other things produced pursuant to this subpoena *duces tecum* shall be provided to Petitioner's Counsel;

2. Respondent may take Mr. Motal's deposition under Fed. R. Civ. P. 30. This deposition may be conducted by remote means pursuant to Rule 30(a)(4).

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<sup>1</sup>Petitioner's Counsel indicated in an email to the Court he had no objection to the Motion for Discovery.

3. Because the nature of Petitioner's claims relate to ineffective assistance of counsel, the Court finds any claim of attorney-client privilege between Petitioner and either his former state court trial counsel, state court appellate counsel, or state court post-conviction (Arkansas Rule 37) counsel is waived for the purpose of these proceedings.

4. The Parties are **ORDERED** to exchange the following "Required Disclosures" pursuant to FED.R.CIV.P. 26:

- (a) Initial Disclosures no later than May 1, 2020, FED.R.CIV.P. 26(a)(1);
- (b) Expert Disclosures, if any, no later than June 1, 2020, FED.R.CIV.P. 26(a)(1); and
- (c) Pretrial Disclosures limited to a witness list and an exhibit list no later than June 15, 2020, FED.R.CIV.P. 26(a)(3).

**IT IS SO ORDERED** this **26th day of March 2020**.

/s/ *Barry A. Bryant*

HON. BARRY A. BRYANT  
U.S. MAGISTRATE JUDGE